

APPLICATION: MA/13/0255 Date: 6 April 2013 Received: 19 April 2013

APPLICANT: Mr Tom Love

LOCATION: MULBERRY FARM, EAST STREET, HUNTON, MAIDSTONE, KENT, ME15 0RA

PARISH: Hunton

PROPOSAL: Variation of condition 04 of planning permission reference MA/03/1087 granted on appeal (being for the change of use of land to residential for three mobile homes for a gypsy family) to allow for the stationing of a further two mobile homes for family members as shown on site location plan received 15 February 2013 and unnumbered and undated block plan.

AGENDA DATE: 6th June 2013

CASE OFFICER: Joanne Alexander

The recommendation for this application is being reported to Committee for decision because:

- it is contrary to views expressed by the Parish Council

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28, ENV34
- Village Design Statement: N/A
- Government Policy: National Planning Policy Framework (2012), Planning Policy for Traveller Sites (2012)

2. HISTORY

MA/03/1087 – Change of use from a lorry park to residential for 3 mobile homes for a gypsy family (12 persons) – Refused – APPEAL – permanent permission given for 3 mobiles and 1 touring caravan 11.08.04

The site has been subject to a number of other applications for planning permission, enforcement action and appeals, however in relation to its previous use, and hence not of any particular relevance in this instance.

3. CONSULTATIONS

- 3.1 KCC Highways – no objection
- 3.2 KCC Public Rights of Way and Access – no objection

4. REPRESENTATIONS

- 4.1 Neighbours – one letter of objection has been received noting that the application should be refused. The objection is made on the grounds that the family have misled the Council on their reasons for living at the site; they have failed to plant the site; have erected further buildings; the site is untidy and an eyesore; extra caravans would add extra strain to the local environment, both on the small local roads, as well as extra mess on the site; the original permission has been broken many times; a limit of 3 generations should be applied.

5. CONSIDERATIONS

5.1 Site Description

- 5.1.1 The application site is a well kept lawful permanent gypsy site, having been given permission for such at appeal in 2004. The site is located on the east side of East Street, some 300m north of the junction with Redwall Lane. It is roughly rectangular in shape having an area of approximately 0.66 hectares. The orchard land to the north east and south east is also under the same ownership.
- 5.1.2 The site is divided into two parts. The western part of the site adjacent to East Street which contains the vehicular access consisting of a concrete driveway, with the remainder laid to grass; and the eastern part of the site where the caravans are sited. The two parts are divided by a wooden fence to an approximate height of 1.6 metres. The eastern part has a roughly rectangular hardstand area to the middle, around which the existing caravans and proposed caravans are to be sited.
- 5.1.3 Most of the site is fenced by open post and rail fencing with mature trees along the fence lines. The land rises up from East Street and then falls away from the eastern boundary of the residential part of the site into a valley beyond.
- 5.1.4 To the east, north and west of the site is open countryside with some orchards. To the south is a small group of residential properties. The area is predominantly open countryside in agricultural and horticultural use, with some woodland. Hunton itself lies approximately 1 km to the west.

5.1.5 For the purposes of planning, the site lies in the open countryside, being within a Special Landscape Area. The land on the west site of East Street is designated as Historic Parkland. Footpath KM164 enters the site to the northern side of the gated access, crossing the front grassed area of the site, before exiting the site into the orchard to the north.

5.2 Proposal

5.2.1 The application seeks a variation to a condition attached to permission MA/03/1087 which reads, *"No more than 4 caravans shall be on the site at any one time; no more than 3 of which shall be caravans not designed for touring"*. Paragraph 52 of the Inspectors decision notes that, at that time, two of the youngest children still lived with the parents and that residents raised concern that the pattern on other gypsy sites, in that authorised numbers of caravans were exceeded and subsequent applications made to accommodate additional caravans as children grew up and get married, could emerge on this site. The Inspector acknowledges that the number of caravans could be limited by condition, and any increase in that number would need planning permission; an application for such a change would enable consideration to be given to the impact of, and need for, any additional accommodation.

5.2.2 The application seeks to increase the permitted number of units used residentially from 3 to 5 to provide separate living accommodation for a son and his partner; and for his daughter and her partner, to enable them to have separate units.

5.3 Principle of Development

5.3.1 There are no saved Local Plan Policies that relate directly to this type of development. Policy ENV28 of the Local Plan relates to development in the countryside stating that:

"Planning permission will not be given for development which harms the character and appearance of the area or the amenities of surrounding occupiers"

ENV28 then outlines the types of development that can be permitted. This does not include gypsy development as this was previously covered under housing Policy H36 but this is not a 'saved' policy.

5.3.2 A key consideration in the determination of this application is central Government guidance contained within 'Planning Policy for Traveller Sites' (PPTS) published in March 2012. This places a firm emphasis on the need to provide more gypsy sites, supporting self-provision and acknowledging that sites are likely to be found in rural areas.

5.3.3 Work on the Local Plan is progressing; however there is, as yet, no adopted Local Plan. Local authorities have the responsibility for setting their own target for the number of pitches to be provided in their areas in their Local Plans. To this end Maidstone Borough Council, in partnership with Sevenoaks District Council procured Salford University Housing Unit to carry out a revised Gypsy and Traveller Accommodation Assessment (GTAA). The GTAA concluded the following need for pitches over the remaining Local Plan period:-

Oct 2011-March 2016	105 pitches
April 2016- March 2021	25 pitches
April 2021- March 2026	27 pitches
April 2026 – March 2031	30 pitches
Total Oct 2011 – March 2031	187 pitches

These figures were agreed by Cabinet on the 13th March 2013 as the pitch target to be included in the next consultation version of the Local Plan.

5.3.4 Draft Policy CS12 of the Regulation 18 version of the Local Plan approved by Cabinet on 13th March 2013 that the Borough need for gypsy and traveller pitches will be addressed through the granting of permanent planning permissions and through the allocation of sites.

5.3.5 The timetable for the Local Plan's adoption is July 2015.

5.3.6 Issues of need are dealt with below but, in terms of broad principles Central Government Guidance clearly allow for gypsy sites to be located in the countryside as an exception to the general theme of restraint.

5.4 Gypsy Status

5.4.1 Annex 1 of the PPTS defines gypsies and travellers as:-

"Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling show people or circus people travelling together as such."

5.4.2 The gypsy status of the family is accepted. This application seeks to increase the number of caravans for the same family. I consider that the Love family comply with the definition of a gypsy as outlined in Government guidance in Planning Policy for traveller sites.

5.6 Need for Gypsy Sites

5.6.1 The PPTS gives guidance on how gypsy accommodation should be achieved, including the requirement to assess need.

5.6.2 As stated above, the projection of accommodation requirements is as follows –

Oct 2011-March 2016	105 pitches
April 2016- March 2021	25 pitches
April 2021- March 2026	27 pitches
April 2026 – March 2031	30 pitches
Total Oct 2011 – March 2031	187 pitches

5.6.3 Taking into account this time period, since 1st October 2011 the following permissions for pitches have been granted (net):

35 Permanent non-personal permissions

6 Permanent personal permissions

0 Temporary non-personal permissions

21 Temporary personal permissions

Therefore a net total of 41 permanent pitches have been granted since 1st October 2011. And hence a shortfall of 64 remains.

5.6.4 It must be noted that the requirement for 105 pitches in the initial 5 year period includes need such as temporary consents that are yet to expire (but will before the end of March 2016) and household formation. Therefore although the pitch target is high for the first five years, the immediate need is not, in my view, overriding. However, the latest GTAA clearly reveals an ongoing need for pitches.

5.7 Visual Impact

5.7.1 The lawful use of the site is as a gypsy caravan site for 3 mobiles and 1 touring caravan.

5.7.2 The Inspector in his appeal decision of 2004 noted that the visual impact arising from the use at this site, given the fact that the access, concrete drive and detached building already exists, is essentially the caravans, parked vehicles and any domestic paraphernalia, and hence the degree of change arising from the development (at that time) was more limited than might normally be expected with new gypsy sites.

- 5.7.3 The Inspector noted that the upper of the caravans are visible above the close boarded fence across the part of the site frontage from a short section of East Street; and (at that time) were also readily visible from the short section of public footpath which crosses the front corner of the site, but along this path a little way into the old orchard the intervening trees, in summer at least, considerably filtered views of the site. He noted that cars and domestic activity in the residential compound are generally screened from public view by the close-boarded fence. He noted that the rear-most 2 caravans which were proposed at that time have a relatively exposed position in relation to the wider countryside to the east, partly because the ground drops away beyond them and partly because of the lack of effective screening, although that in the long term, the planting of the rear of the residential compound, together with other existing planting, would provide year-round screening. The Inspector concluded, given the visual harm, a condition should be applied to the permission, limiting the number of caravans on the site to 3 + 1.
- 5.7.4 The two caravans proposed under the subject application are to be located within the existing residential area of the site. One to the north of the rectangular hardsurfaced area; and one to the east of the hardsurfaced area, to the south of an existing unit.
- 5.7.5 The site enjoys planting to all sides, with an established conifer and laurel boundary to the east of the residential area. This provides good all year screening outside the site to the east. Similarly, given the existing planting, there are only fleeting views of the caravans from East Street and the Public Footpath.
- 5.7.6 The latest guidance in the PPTS states that Local Planning Authorities should strictly limit new traveller development in open countryside (paragraph 23) but goes on to state that where sites are in rural areas, considerations are that sites do not dominate the nearest settled community and do not place undue pressure on local infrastructure. No specific reference to landscape impact is outlined, however, this is addressed in the NPPF and clearly under Local Plan policy ENV28.
- 5.7.7 This is not a new gypsy site. This is a site which has permission to be used as a gypsy site for 3 + 1 caravans, and is seeking to increase the number of units to accommodate two, now grown up children. I consider the need for these two units to be reasonable.
- 5.7.8 As stated above, the site is located within the open countryside with policies within the development plan seeking to protect the character and appearance of such areas. I have considered the additional visual impact of the additional two

caravans proposed. Whilst arguably, their presence on site will increase the cumulative visual impact on the area, given their proposed location, the lawful use of the site, the fact they are needed for two of the children, and the planting which exists at the site, I do not consider that two additional caravans, will result in such significant visual harm which would warrant refusal in this instance.

5.8 Personal Circumstances

- 5.8.1 The existing permission under MA/03/1087 is a permanent permission for gypsy use. It is not a personal permission to the applicant and his family.
- 5.8.2 Of the three existing caravans, one is used by the father, Mr Tom Love (Snr), and one each for his two sons and their wives/partners. Of the two proposed units, one is for a third son, Luke Love and his partner; and one is for Mr Love (Snr's) daughter and her partner.

5.9 Residential Amenity

- 5.9.1 There are a handful of neighbouring residential properties on East Street to the south, and a couple to the north. The closest being the Rectory which is a detached property adjoining the site to the south. There is existing boundary treatment between this gypsy site and the Rectory.
- 5.9.2 I do not consider there would be any harm to the amenity of the occupiers of any surrounding residential dwellings.

5.10 Highways

- 5.10.1 KCC Highways have raised no objection to the application, noting that the use is to be made of an existing access where there have been no recorded injury crashes within the last 3 year period; and that the application will not lead to any significant increase in traffic onto East Street.

5.11 Other Matters

- 5.11.1 The occupants of the proposed units already reside on the site. I do not consider that the introduction of two additional caravans to this site will result in any significant increase in traffic use. Further, given the lawful use, I do not consider the proposal to result in development which is unacceptable in sustainability terms.
- 5.11.2 Whilst there are other gypsy sites in the wider Hunton area, I do not consider by given permission for two additional units on this lawful gypsy site to result in an unacceptable cumulative impact on the character or appearance of the area.

- 5.11.3 Given the fact the site has a permanent permission for use as a gypsy site for three residential units, and the limited resultant harm by the proposal to vary this number to five, I do not consider it relevant or necessary to attach either a temporary permission or a personal permission, should permission be forthcoming.

6. CONCLUSION

- 6.1 This is a lawful gypsy site located in the countryside and Special Landscape Area.
- 6.2 The current occupiers are gypsies and comply with the definition contained within the Planning Policy for Gypsy Sites.
- 6.3 A condition limits the number of caravans sited for residential use to 3. Two additional units are required for the fathers son and daughter. The site enjoys good mature screening with only very limited views of parts of caravans when travelling along East Street. The residential part of the site can be partly seen from the footpath, the orchard to the north and the wider area to the south, however, these views are generally obscured somewhat by trees outside the site and by the existing mature planting. Nevertheless, current policy recognises that sites do not need to be invisible in the countryside.
- 6.4 The proposed development will not result in domination of the settled community.
- 6.5 The proposal is at an existing site. The proposed increase from three caravans in residential use to five caravans will not result in an unsustainable form of development which would warrant refusal.
- 6.6 The proposed development does not have any adverse impact on residential amenity.
- 6.7 There is a current need for Gypsy and Traveller sites as identified by the revised GTAA.
- 6.8 There are no other significant planning issues that would warrant refusal of the application.
- 6.9 Taking all the above into account, I therefore consider that it would be appropriate to recommend that planning permission should be granted for the variation of the condition attached to MA/03/1087 to allow an increase from 3 caravans in residential use to 5 caravans in residential use.

7. RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The site shall not be used as a caravan site by any persons other than gypsies, as defined in Annex 1 of the Planning Policy for Traveller Sites 2012.

Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted in accordance with policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan (2000).

3. If the site ceases to be occupied in accordance with Condition 2 above, all caravans, structures, equipment, materials and all associated residential paraphernalia brought onto the land for the purposes hereby permitted shall be removed from the land.

Reason: To safeguard the character and appearance of the countryside in accordance with Policies ENV28 and ENV34 of The Maidstone Borough-Wide Local Plan.

4. No more than six caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 5 shall be a static caravan) shall be stationed on the site at any time.

Reason: To accord with the terms of the application and in the interests of the visual amenity in accordance with Policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan 2000.

5. The caravans shall be sited in accordance with the approved details within the application.

Reasons: To accord with the terms of the application and in the interests of visual amenity in accordance with Policies ENV28 and ENV34 of the Maidstone Wide Local Plan 2000.

The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000 and the South East Plan 2009) and there are no overriding material considerations to indicate a refusal of planning consent.